

Maine Revised Statutes
Title 32: PROFESSIONS AND OCCUPATIONS
Chapter 109-A: MAINE FAIR DEBT COLLECTION
PRACTICES ACT HEADING: PL 1987, c. 402, Pt. A, §173 (rpr)

§11013. PROHIBITED PRACTICES

1. Harassment or abuse. A debt collector may not engage in any conduct, the natural consequence of which is to harass, oppress or abuse any person in connection with the collection of a debt. Without limiting the general application of this subsection, the following conduct is a violation of this section:

- A. The use or threat of use of violence or other criminal means to harm the physical person, reputation or property of any person; [1985, c. 702, §2 (NEW).]
- B. The use of obscene or profane language, or language the natural consequence of which is to abuse the hearer or reader; [1985, c. 702, §2 (NEW).]
- C. The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of Title 10, chapter 209-B; [2013, c. 588, Pt. C, §16 (AMD).]
- D. The advertisement for sale of any debt to coerce payment of the debt; [1985, c. 702, §2 (NEW).]
- E. Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse or harass any person at the called number; [1985, c. 702, §2 (NEW).]
- F. Except as provided in section 11011, the placement of telephone calls without meaningful disclosure of the caller's identity; and [1985, c. 702, §2 (NEW).]
- G. The use of "shame cards," "shame automobiles" or similar devices. [1985, c. 702, §2 (NEW).]

[2013, c. 588, Pt. C, §16 (AMD) .]

2. False or misleading representations. A debt collector may not use any false, deceptive or misleading representation or means in connection with the collection of any debt. Without limiting the general application of this subsection, the following conduct is a violation of this section:

- A. The false representation or implication that the debt collector is vouched for, bonded by or affiliated with the United States or any state, including the use of any badge, uniform, seal, insignia or facsimile; [1985, c. 702, §2 (NEW).]
- B. The false representation of:
 - (1) The character, amount or legal status of any debt; or
 - (2) Any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt; [1985, c. 702, §2 (NEW).]
- C. The false representation or implication that any individual is an attorney or that any communication is from an attorney; [1985, c. 702, §2 (NEW).]
- D. The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment or sale of any property or wages of any person, unless that action is lawful and the debt collector or creditor intends to take that action; [1985, c. 702, §2 (NEW).]

E. The threat to take any action that may not legally be taken or that is not intended to be taken; [1985, c. 702, §2 (NEW).]

F. The false representation or implication that a sale, referral or other transfer of any interest in a debt shall cause the consumer to:

(1) Lose any claim or defense to payment of the debt; or

(2) Become subject to any practice prohibited by this Act or the Maine Consumer Credit Code, Title 9-A; [1985, c. 702, §2 (NEW).]

G. The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer; [1985, c. 702, §2 (NEW).]

H. Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed; [1985, c. 702, §2 (NEW).]

I. The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued or approved by any court, official or agency of the United States or any state, or which creates a false impression as to its source, authorization or approval; [1985, c. 702, §2 (NEW).]

J. The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer; [1985, c. 702, §2 (NEW).]

K. [1997, c. 155, Pt. D, §1 (RP).]

K-1. The failure to disclose in the initial written communication with the consumer and, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph does not apply to a formal pleading made in connection with a legal action; [1997, c. 155, Pt. D, §2 (NEW).]

L. The false representation or implication that accounts have been turned over to innocent purchasers for value; [1985, c. 702, §2 (NEW).]

M. The false representation or implication that documents are legal process; [1985, c. 702, §2 (NEW).]

N. The use of any business, company or organization name other than the true name of the debt collector's business, company or organization; [1985, c. 702, §2 (NEW).]

O. The false representation or implication that documents are not legal process forms or do not require action by the consumer; or [1985, c. 702, §2 (NEW).]

P. The false representation or implication that a debt collector operates or is employed by a consumer reporting agency, as defined by Title 10, section 1308, subsection 3. [2013, c. 588, Pt. C, §17 (AMD).]

[2013, c. 588, Pt. C, §17 (AMD) .]

3. Unfair practices. A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of this subsection, the following conduct is a violation of this section:

A. The collection of any amount, including any interest, fee, charge or expense incidental to the principal obligation, unless the amount is expressly authorized by the agreement creating the debt or permitted by law; [1985, c. 702, §2 (NEW).]

- B. The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than 5 days, unless that person is notified in writing of the debt collector's intent to deposit that check or instrument not more than 10 nor less than 3 business days prior to the deposit; [1985, c. 702, §2 (NEW).]
- C. The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution; [1985, c. 702, §2 (NEW).]
- D. Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on the check or instrument; [1985, c. 702, §2 (NEW).]
- E. Causing charges to be made to any person for communications by concealment of the true purpose of the communication. These charges include, but are not limited to, collect telephone calls and telegram fees; [1985, c. 702, §2 (NEW).]
- F. Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if:
- (1) There is no present right to possession of the property claimed as collateral through an enforceable security interest;
 - (2) There is no present intention to take possession of the property; or
 - (3) The property is exempt by law from the dispossession or disablement; [1985, c. 702, §2 (NEW).]
- G. Communicating with a consumer regarding a debt by postcard; [1985, c. 702, §2 (NEW).]
- H. Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if that name does not indicate that he is in the debt collection business; [1985, c. 702, §2 (NEW).]
- I. Using or employing notaries public, constables, sheriffs or any other officer authorized to serve legal papers in the collection of a claim; [1985, c. 702, §2 (NEW).]
- J. Exercising authority on behalf of a creditor to employ the services of lawyers, unless the creditor has specifically authorized the agency in writing to do so and the debt collector's course of conduct is at all times consistent with the true relationship of attorney and client between the lawyer and the creditor, such that the debt collector will not demand or obtain in any manner a share of the compensation for services performed by a lawyer in collecting a claim; [1985, c. 702, §2 (NEW).]
- K. Failing to return any claim or claims upon written request of the creditor, claimant or forwarder after the tender of such amounts, if any, as may be due and owing to the debt collector, or refusing or intentionally failing to account to its clients for all money collected within 30 days from the last day of the month in which the money is collected or refusing, or intentionally failing, to return to the creditor all valuable papers deposited with a claim when that claim is returned; [1985, c. 702, §2 (NEW).]
- L. Commingling money collected for a creditor with the debt collector's own funds or using any part of a creditor's money in the conduct of the debt collector's business; [1985, c. 702, §2 (NEW).]
- M. Engaging in the business of lending money to any person or contacting any person for the purpose of securing a loan for any person with which to pay any claim left with it for collection, or recommending any person or persons as a source of funds to pay any such claim; or [1985, c. 702, §2 (NEW).]

N. Threatening to bring legal action in the debt collector's own name or instituting a suit on behalf of others or furnishing legal advice, except that a debt collector who is also an attorney may bring an action under this paragraph in the name of the creditor in any division or county permitted by 15 United States Code, Section 1692i and may furnish legal advice to the creditor with respect to a debt. [2009, c. 245, §8 (RPR) .]

[2009, c. 245, §8 (AMD) .]

4. Reporting to consumer reporting agency. A debt collector may not report solely in its own name any credit or debt information to a consumer reporting agency, as defined by Title 10, section 1308, subsection 3.

[2013, c. 588, Pt. C, §18 (AMD) .]

5. Reporting certain unpaid medical expenses; court or administrative orders. A debt collector may not report to a consumer reporting agency any credit or debt information regarding overdue medical expenses owed by a parent for a minor child if the debt collector is notified orally or in writing of the existence of a court order or administrative order identifying another person as the party responsible for payment of medical expenses for that minor child. In addition, a report may not be made until after the debt collector has notified, or made a good faith effort to notify, the responsible party of that party's obligation to pay the overdue medical expenses. The debt collector may request reasonable verification of the order, including requesting a certified copy of the order.

[1993, c. 365, §2 (NEW) .]

SECTION HISTORY

1985, c. 702, §2 (NEW). 1991, c. 453, §8 (AMD). 1991, c. 453, §10 (AFF). 1993, c. 365, §2 (AMD). 1997, c. 155, §§D1, 2 (AMD). 2009, c. 245, §8 (AMD). 2013, c. 588, Pt. C, §§16-18 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 126th Maine Legislature and is current through August 1, 2014. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.